

REMARKS

Claims 1-68 are pending.

5 A credit card payment form for \$225.00 is enclosed with this Amendment A. It is not believed that any further fees are necessary at this time. However, in the event additional fees are required, Applicants authorize the Commissioner to take any necessary fees, including those under 37 CFR 1.16 and 1.17, from deposit account 50-0913.

A Brief Review of One Embodiment of Applicants' Invention

10 In one embodiment of Applicants' invention, a gaming device has a moveable game element that is located in a display area and is moveable in at least a first and second manner. A controller is located in the housing and is in communication with the moveable game element. The controller determines a game outcome, which may be a winning or losing outcome. The controller preferably moves the moveable game element in a first manner during game play and
15 in a second manner after the controller determines a threshold number of consecutive outcomes of the same type, (see figure 4 and paragraphs 64, 65 and 74-80).

In another embodiment of Applicants' invention, a method of playing a game is disclosed. The method includes placing a wager and displaying a game on a gaming device. The game display preferably includes a plurality of moveable objects. The moveable objects are
20 preferably moved in a first manner during the game. The game also includes determining a game outcome, which may be a winning or losing outcome. The method also preferably includes determining the number of consecutive losing events. The moveable objects are moved in a second manner if the number of consecutive outcomes of the same type is at least a threshold number, (see figure 4 and paragraphs 64, 65 and 74-80).

In another embodiment of Applicants' invention, a gaming device has a player input device and a moveable game element. A controller is located in the housing and is in communication with the moveable game element. The controller determines a game outcome, which may be a winning or losing outcome. The controller moves the moveable game element in a first manner during game play and allows the player to use the player input device to move the moveable game element in a second manner during non-game play, (see figures 1 and 4 and paragraphs 74-80).

Double Patenting

The Office objected to claim 44 under 35 U.S.C. §101 as allegedly being the same as claim 45. Claim 45 has been canceled. Withdrawal of the double patenting rejection is respectfully requested.

Rejection under 35 U.S.C. § 112

The Office rejected claims 11, 12 and 25 under 35 U.S.C. §112 as allegedly being indefinite for failing to particularly point out distinctly claim the invention. Claims 11, 12 and 25 have been amended to more clearly state the invention. Withdrawal of the §112 rejection is respectfully requested.

Rejection under 35 U.S.C. § 103(a)

The Office rejected claims 1-68 under 35 U.S.C. §103(a) over U.S. Patent No. 6,375,570 issued to Poole in view of U.S. Patent No. 5,833,538 issued to Weiss. Applicants respectfully traverse this rejection for at least the reasons stated below.

To the extent the Office feels the cited references may be relevant to pending claims 1-68, Applicants provide the following discussion.

Poole purports to disclose a video gaming device for displaying an exhibition that replaces video reels. Poole apparently changes several video reels into a video display that can
5 show an animated exhibition for player entertainment, (see figures 4 and 5 and column 7, lines 30-50).

Weiss purports to disclose an apparatus and method for automatically varying between several theoretical expectations on a game device. In response to a triggering event, the game device appears to alter the expected outcome for a minimum duration period, (see figure 2 and
10 column 8, lines 36-48).

Independent claims 1 and 15 of Applicant's application specifically require a player input device that can allow the player to move a game element when a game is not being played. Neither device of Poole or Weiss teach, disclose or suggest the use of a player input device that allows the player to move game elements or objects during periods in which the game is not
15 being played. Poole and Weiss are completely devoid of any reference to allow a player to use a player input device to move game elements in a different manner than during game play.

Claims 2-14 and 16-29 are patentable for the reasons stated above and because they include limitations that are not disclosed in the cited references. For example, claim 2 recites enabling the player input device after a number of losing game outcomes. Neither Poole nor
20 Weiss teach, disclose or suggest this feature.

Claims 19 and 20 recite steps related to disabling the player input device. Neither Poole nor Weiss teach, disclose or suggest operating a game in this manner. The Office has not cited any portion of Poole or Weiss showing the disabling of a player input device.

In the Office Action, the Office states Poole does not, “disclose determining a number of consecutive losing events with respect to a determined threshold.” The applicant agrees with this conclusion.

5 There is no teaching, disclosure or suggestion in Poole to determine a threshold number of consecutive outcomes or losing events. It has been well determined by the Federal Circuit that an obviousness rejection is not proper unless there is some suggestion in the prior art to combine the references in the manner shown by the examiner. There is no suggestion in Poole to determine a threshold number of consecutive outcomes or losing events.

10 If the device of Poole was combined with the device of Weiss, the result would be a gaming device that has video reels that can provide an animated video display during a game and that can alter the expected outcome of the game for a minimum duration period. The combined device would lack a player input device. The combined device would further lack the ability to change the display in response to a threshold number of consecutive outcomes or losing events.

15 Independent claims 30 and 46 of Applicant’s application specifically require the steps of determining the number of consecutive losing events or outcomes and moving the moveable objects in a second manner if the number of consecutive outcomes of the same type is a threshold number. Neither device of Poole or Weiss, teach, disclose or suggest counting losing events and moving the moveable objects in a different manner when the game is not being played. Weiss discloses varying between several theoretical expectations on a game device for a
20 minimum duration period.

Claims 31-45 and 47-59 are patentable for the reasons stated above and because they include limitations that are not disclosed in the cited references. For example, claims 33-35 recite steps related to disabling the player input device. Neither Poole nor Weiss teach, disclose

or suggest operating a game in this manner. The Office has not cited any portion of Poole or Weiss showing the disabling of a player input device.

Independent claim 60 of Applicant's application specifically requires the steps of determining a number of losing outcomes, moving the display means in a first manner during
5 game play and moving the display means in a second manner after a threshold number of consecutive losing outcomes.

Neither device of Poole or Weiss, teach, disclose or suggest counting losing events and moving the moveable objects in a different manner after a number of losing events has occurred. Weiss discloses changing the theoretical expectations on a game device for a minimum duration
10 period after a random or pseudo random event.

Claims 62-67 are patentable for the reasons stated above and because they include limitations that are not disclosed in the cited references. For example, claim 63 recites a player input means that moves the display means in a second manner after a player activates the player input means. The Office has not cited any portion of Poole or Weiss showing a player input
15 means for moving a display means.

Independent claim 68 of Applicant's application specifically requires moving moveable objects from a first position after the game is played to another position and then returning the moveable objects to the first position prior to the start of another game.

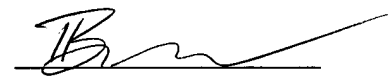
Neither device of Poole or Weiss, teach, disclose or suggest moving moveable objects in
20 such a manner and then returning the moveable objects back to the first position prior to the start of another game.

Because the cited references do not teach, disclose or suggest Applicants' claims, Applicants respectfully request the Office to withdraw the §103(a) rejection.

CONCLUSION

For all of the above reasons, the Applicants submit that the present application is in condition for allowance. If the Examiner has any questions regarding the application or amendment, the Examiner is encouraged to call the Applicants' attorney at (775) 826-6160.

Respectfully Submitted,



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